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GENERAL SERVICES

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

SHARON PATERSON,

Plaintiff,

v.

**CALIFORNIA DEPARTMENT OF GENERAL
SERVICES, RAYMOND ASBELL and INTER-
CON SECURITY SYSTEMS, INC.,**

Defendants.

CASE NO. 2:05-cv-0827-MCE-JFM

**STIPULATION AND ORDER TO
MODIFY EXPERT DISCLOSURE
DATE TO PERMIT
COMPLETION OF REGULAR
DISCOVERY PRIOR TO EXPERT
DISCOVERY**

Through their counsel of record, all of the parties in the above-entitled action hereby stipulate and respectfully request that the Court modify the expert disclosure deadline in this case so that regular discovery may first be completed, with expert discovery to commence *after* the close of regular discovery, based upon the following facts:

1. On April 26, 2006, the Court signed a "Stipulation and Order To Continue The Discovery Completion Date," ("Discovery Cut-Off Stipulation") extending that date to September 29, 2006. The previous discovery cut-off date of June 14, 2006, had been set by the Court's Pre-Trial Scheduling Order of November 4, 2005.

1 However, at the time the Court entered that Order, Defendant Asbell had not yet been served and
2 thus his attorney had been unable to participate in the Rule 26 meeting of counsel or in the
3 setting of any pre-trial event dates. No other dates in the Court's November 4, 2005, Pre-Trial
4 Scheduling Order were affected by the Discovery Cut-Off Stipulation.

5 2. After the Court entered the Discovery Cut-Off Stipulation, counsel for defendant
6 Inter-Con Security Systems substituted out of the case. The Court signed the substitution of
7 counsel on June 1, 2006. Inter-Con's newly retained counsel is now Kauff, McClain and
8 McGuire.

9 3. Even prior to Inter-Con's substitution of counsel, discovery in this case was
10 delayed due to the unavailability of the initial court-appointed VDRP neutral in this case. After
11 several months, it became clear that the neutral's calendar was too crowded to accommodate the
12 parties, and the parties were required to ask the court to appoint a new neutral. Thus, discovery
13 was not able to begin in earnest until that VDRP process was completed. A Notice of
14 Completion of VDRP was filed on May 17, 2006.

15 4. As it now stands, the schedule requires expert disclosures to commence on August
16 14, 2006, prior to the close of regular discovery on September 29, 2006. The parties have now
17 realized that modification of the regular discovery cut-off date, without modification of the
18 expert disclosure date, has placed the parties in the position of commencing expert discovery
19 before the facts of the case have been fully explored in regular discovery. Moreover, intervening
20 events have occurred since the filing of the original Discovery Cut-Off Stipulation that make it
21 impracticable and prejudicial for the parties to commence expert discovery until regular
22 discovery has been completed.

23 5. For example, one of the parties has newly retained counsel, and permitting expert
24 disclosures after the close of regular discovery would permit all parties to disclose experts after
25 all parties have had a full and fair opportunity to learn and discover all relevant facts. Moreover,
26 Defendant Department of General Services (DGS) asked counsel for Plaintiff, on June 30, 2006,
27 to stipulate to a mental examination of Plaintiff.

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On July 10, 2006, Plaintiff's counsel informed DGS's counsel that he will be unable to determine whether or not Plaintiff will agree to a mental examination in time for DGS to file a timely motion that would permit such an examination prior to the existing expert disclosure deadline. Thus, moving the expert disclosure date will also conserve judicial economy and avoid unnecessary motion practice.

7. The parties make this stipulation so that, in accordance with normal pre-trial practice, they may disclose experts and file expert reports after regular discovery has even been completed. This stipulation is not made for the purposes of delay. The trial date in this case is set for March 14, 2006. The parties do not request a continuance of the trial date or any other date in the Pre-Trial (Status) Scheduling Order.

Based on the foregoing, the parties hereby stipulate and agree that:

- a. Initial expert designations will be served on November 3, 2006;
- b. Pursuant to this Court's Pre-Trial Scheduling Order, supplemental/rebuttal experts shall be designated within 20 days after the designation of expert witnesses on November 3, 2006;
- c. The parties do not anticipate that expert discovery will affect the filing of dispositive motions under the facts of this case. The parties agree to complete discovery of experts in a timely manner that will permit compliance with the Court's existing deadline for filing a joint pre-trial statement.

DATE: July 11, 2006

By: s/Lawrence King
Lawrence King
Attorney for Plaintiff
Sharon Paterson

DATE: July 11, 2006

By: s/William Darden
William Darden
Attorney for Defendant
Department of General Services

1 DATE: July 11, 2006

By: s/Daniel O'Donnell
Daniel O'Donnell
Attorney for Defendant Raymond
Asbell

4 DATE: July 11, 2006

By: s/Jeffrey Polsky
Jeffrey Polsky
KAUFF, MCCLAIN AND
MCGUIRE, LLP
Attorney for Inter-Con Security
Systems

7 **IT IS SO ORDERED:**

9 DATE: July 13, 2006

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12 MORRISON C. ENGLAND, JR.
13 UNITED STATES DISTRICT JUDGE
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